
BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: Z-0707.2/12 2nd draft

ATTY/TYPIST: ML:crs

BRIEF DESCRIPTION: Regarding large wild carnivore conflict management.

1 AN ACT Relating to large wild carnivore conflict management;
2 amending RCW 77.08.030, 77.36.100, 77.36.130, and 77.15.160; reenacting
3 and amending RCW 77.08.010; adding a new section to chapter 77.36 RCW;
4 adding new sections to chapter 77.15 RCW; and prescribing penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 77.08.010 and 2011 c 324 s 3 are each reenacted and
7 amended to read as follows:

8 The definitions in this section apply throughout this title or
9 rules adopted under this title unless the context clearly requires
10 otherwise.

11 (1) "Angling gear" means a line attached to a rod and reel capable
12 of being held in hand while landing the fish or a hand-held line
13 operated without rod or reel.

14 (2) "Aquatic invasive species" means any invasive, prohibited,
15 regulated, unregulated, or unlisted aquatic animal or plant species as
16 defined under subsections (3), (28), (40), (44), (60), and (61) of this
17 section, aquatic noxious weeds as defined under RCW 17.26.020(5)(c),
18 and aquatic nuisance species as defined under RCW 77.60.130(1).

1 (3) "Aquatic plant species" means an emergent, submersed, partially
2 submersed, free-floating, or floating-leaving plant species that grows
3 in or near a body of water or wetland.

4 (4) "Bag limit" means the maximum number of game animals, game
5 birds, or game fish which may be taken, caught, killed, or possessed by
6 a person, as specified by rule of the commission for a particular
7 period of time, or as to size, sex, or species.

8 (5) "Closed area" means a place where the hunting of some or all
9 species of wild animals or wild birds is prohibited.

10 (6) "Closed season" means all times, manners of taking, and places
11 or waters other than those established by rule of the commission as an
12 open season. "Closed season" also means all hunting, fishing, taking,
13 or possession of game animals, game birds, game fish, food fish, or
14 shellfish that do not conform to the special restrictions or physical
15 descriptions established by rule of the commission as an open season or
16 that have not otherwise been deemed legal to hunt, fish, take, harvest,
17 or possess by rule of the commission as an open season.

18 (7) "Closed waters" means all or part of a lake, river, stream, or
19 other body of water, where fishing or harvesting is prohibited.

20 (8) "Commercial" means related to or connected with buying,
21 selling, or bartering.

22 (9) "Commission" means the state fish and wildlife commission.

23 (10) "Concurrent waters of the Columbia river" means those waters
24 of the Columbia river that coincide with the Washington-Oregon state
25 boundary.

26 (11) "Contraband" means any property that is unlawful to produce or
27 possess.

28 (12) "Deleterious exotic wildlife" means species of the animal
29 kingdom not native to Washington and designated as dangerous to the
30 environment or wildlife of the state.

31 (13) "Department" means the department of fish and wildlife.

32 (14) "Director" means the director of fish and wildlife.

33 (15) "Endangered species" means wildlife designated by the
34 commission as seriously threatened with extinction.

35 (16) "Ex officio fish and wildlife officer" means a commissioned
36 officer of a municipal, county, state, or federal agency having as its
37 primary function the enforcement of criminal laws in general, while the
38 officer is in the appropriate jurisdiction. The term "ex officio fish

1 and wildlife officer" includes special agents of the national marine
2 fisheries service, state parks commissioned officers, United States
3 fish and wildlife special agents, department of natural resources
4 enforcement officers, and United States forest service officers, while
5 the agents and officers are within their respective jurisdictions.

6 (17) "Fish" includes all species classified as game fish or food
7 fish by statute or rule, as well as all fin fish not currently
8 classified as food fish or game fish if such species exist in state
9 waters. The term "fish" includes all stages of development and the
10 bodily parts of fish species.

11 (18) "Fish and wildlife officer" means a person appointed and
12 commissioned by the director, with authority to enforce this title and
13 rules adopted pursuant to this title, and other statutes as prescribed
14 by the legislature. Fish and wildlife officer includes a person
15 commissioned before June 11, 1998, as a wildlife agent or a fisheries
16 patrol officer.

17 (19) "Fish broker" means a person whose business it is to bring a
18 seller of fish and shellfish and a purchaser of those fish and
19 shellfish together.

20 (20) "Fishery" means the taking of one or more particular species
21 of fish or shellfish with particular gear in a particular geographical
22 area.

23 (21) "Freshwater" means all waters not defined as saltwater
24 including, but not limited to, rivers upstream of the river mouth,
25 lakes, ponds, and reservoirs.

26 (22) "Fur-bearing animals" means game animals that shall not be
27 trapped except as authorized by the commission.

28 (23) "Game animals" means wild animals that shall not be hunted
29 except as authorized by the commission.

30 (24) "Game birds" means wild birds that shall not be hunted except
31 as authorized by the commission.

32 (25) "Game farm" means property on which wildlife is held or raised
33 for commercial purposes, trade, or gift. The term "game farm" does not
34 include publicly owned facilities.

35 (26) "Game reserve" means a closed area where hunting for all wild
36 animals and wild birds is prohibited.

37 (27) "Illegal items" means those items unlawful to be possessed.

1 (28) "Invasive species" means a plant species or a nonnative animal
2 species that either:

3 (a) Causes or may cause displacement of, or otherwise threatens,
4 native species in their natural communities;

5 (b) Threatens or may threaten natural resources or their use in the
6 state;

7 (c) Causes or may cause economic damage to commercial or
8 recreational activities that are dependent upon state waters; or

9 (d) Threatens or harms human health.

10 (29) "License year" means the period of time for which a
11 recreational license is valid. The license year begins April 1st, and
12 ends March 31st.

13 (30) "Limited-entry license" means a license subject to a license
14 limitation program established in chapter 77.70 RCW.

15 (31) "Money" means all currency, script, personal checks, money
16 orders, or other negotiable instruments.

17 (32) "Nonresident" means a person who has not fulfilled the
18 qualifications of a resident.

19 (33) "Offshore waters" means marine waters of the Pacific Ocean
20 outside the territorial boundaries of the state, including the marine
21 waters of other states and countries.

22 (34) "Open season" means those times, manners of taking, and places
23 or waters established by rule of the commission for the lawful hunting,
24 fishing, taking, or possession of game animals, game birds, game fish,
25 food fish, or shellfish that conform to the special restrictions or
26 physical descriptions established by rule of the commission or that
27 have otherwise been deemed legal to hunt, fish, take, harvest, or
28 possess by rule of the commission. "Open season" includes the first
29 and last days of the established time.

30 (35) "Owner" means the person in whom is vested the ownership
31 dominion, or title of the property.

32 (36) "Person" means and includes an individual; a corporation; a
33 public or private entity or organization; a local, state, or federal
34 agency; all business organizations, including corporations and
35 partnerships; or a group of two or more individuals acting with a
36 common purpose whether acting in an individual, representative, or
37 official capacity.

1 (37) "Personal property" or "property" includes both corporeal and
2 incorporeal personal property and includes, among other property,
3 contraband and money.

4 (38) "Personal use" means for the private use of the individual
5 taking the fish or shellfish and not for sale or barter.

6 (39) "Predatory birds" means wild birds that may be hunted
7 throughout the year as authorized by the commission.

8 (40) "Prohibited aquatic animal species" means an invasive species
9 of the animal kingdom that has been classified as a prohibited aquatic
10 animal species by the commission.

11 (41) "Protected wildlife" means wildlife designated by the
12 commission that shall not be hunted or fished.

13 (42) "Raffle" means an activity in which tickets bearing an
14 individual number are sold for not more than twenty-five dollars each
15 and in which a permit or permits are awarded to hunt or for access to
16 hunt big game animals or wild turkeys on the basis of a drawing from
17 the tickets by the person or persons conducting the raffle.

18 (43) "Recreational and commercial watercraft" includes the boat, as
19 well as equipment used to transport the boat, and any auxiliary
20 equipment such as attached or detached outboard motors.

21 (44) "Regulated aquatic animal species" means a potentially
22 invasive species of the animal kingdom that has been classified as a
23 regulated aquatic animal species by the commission.

24 (45) "Resident" means:

25 (a) A person who has maintained a permanent place of abode within
26 the state for at least ninety days immediately preceding an application
27 for a license, has established by formal evidence an intent to continue
28 residing within the state, and who is not licensed to hunt or fish as
29 a resident in another state; and

30 (b) A person age eighteen or younger who does not qualify as a
31 resident under (a) of this subsection, but who has a parent that
32 qualifies as a resident under (a) of this subsection.

33 (46) "Retail-eligible species" means commercially harvested salmon,
34 crab, and sturgeon.

35 (47) "Saltwater" means those marine waters seaward of river mouths.

36 (48) "Seaweed" means marine aquatic plant species that are
37 dependent upon the marine aquatic or tidal environment, and exist in

1 either an attached or free floating form, and includes but is not
2 limited to marine aquatic plants in the classes Chlorophyta,
3 Phaeophyta, and Rhodophyta.

4 (49) "Senior" means a person seventy years old or older.

5 (50) "Shark fin" means a raw, dried, or otherwise processed
6 detached fin or tail of a shark.

7 (51)(a) "Shark fin derivative product" means any product intended
8 for use by humans or animals that is derived in whole or in part from
9 shark fins or shark fin cartilage.

10 (b) "Shark fin derivative product" does not include a drug approved
11 by the United States food and drug administration and available by
12 prescription only or medical device or vaccine approved by the United
13 States food and drug administration.

14 (52) "Shellfish" means those species of marine and freshwater
15 invertebrates that have been classified and that shall not be taken
16 except as authorized by rule of the commission. The term "shellfish"
17 includes all stages of development and the bodily parts of shellfish
18 species.

19 (53) "State waters" means all marine waters and fresh waters within
20 ordinary high water lines and within the territorial boundaries of the
21 state.

22 (54) "To fish," "to harvest," and "to take," and their derivatives
23 means an effort to kill, injure, harass, or catch a fish or shellfish.

24 (55) "To hunt" and its derivatives means an effort to kill, injure,
25 capture, or harass a wild animal or wild bird.

26 (56) "To process" and its derivatives mean preparing or preserving
27 fish, wildlife, or shellfish.

28 (57) "To trap" and its derivatives means a method of hunting using
29 devices to capture wild animals or wild birds.

30 (58) "Trafficking" means offering, attempting to engage, or
31 engaging in sale, barter, or purchase of fish, shellfish, wildlife, or
32 deleterious exotic wildlife.

33 (59) "Unclaimed" means that no owner of the property has been
34 identified or has requested, in writing, the release of the property to
35 themselves nor has the owner of the property designated an individual
36 to receive the property or paid the required postage to effect delivery
37 of the property.

1 (60) "Unlisted aquatic animal species" means a nonnative animal
2 species that has not been classified as a prohibited aquatic animal
3 species, a regulated aquatic animal species, or an unregulated aquatic
4 animal species by the commission.

5 (61) "Unregulated aquatic animal species" means a nonnative animal
6 species that has been classified as an unregulated aquatic animal
7 species by the commission.

8 (62) "Wholesale fish dealer" means a person who, acting for
9 commercial purposes, takes possession or ownership of fish or shellfish
10 and sells, barter, or exchanges or attempts to sell, barter, or
11 exchange fish or shellfish that have been landed into the state of
12 Washington or entered the state of Washington in interstate or foreign
13 commerce.

14 (63) "Wild animals" means those species of the class Mammalia whose
15 members exist in Washington in a wild state and the species *Rana*
16 *catesbeiana* (bullfrog). The term "wild animal" does not include feral
17 domestic mammals or old world rats and mice of the family Muridae of
18 the order Rodentia.

19 (64) "Wild birds" means those species of the class Aves whose
20 members exist in Washington in a wild state.

21 (65) "Wildlife" means all species of the animal kingdom whose
22 members exist in Washington in a wild state. This includes but is not
23 limited to mammals, birds, reptiles, amphibians, fish, and
24 invertebrates. The term "wildlife" does not include feral domestic
25 mammals, old world rats and mice of the family Muridae of the order
26 Rodentia, or those fish, shellfish, and marine invertebrates classified
27 as food fish or shellfish by the director. The term "wildlife"
28 includes all stages of development and the bodily parts of wildlife
29 members.

30 (66) "Youth" means a person fifteen years old for fishing and under
31 sixteen years old for hunting.

32 (67) "Building" means a private domicile, garage, barn, or public
33 or commercial building.

34 (68) "Food, food waste, or other substance" includes human and pet
35 food or other waste or garbage that could attract large wild
36 carnivores.

37 (69) "Intentionally feed, attempt to feed, or attract" means to
38 purposefully or knowingly provide, leave, or place in, on, or about any

land or building any food, food waste, or other substance that attracts or could attract large wild carnivores to that land or building. "Intentionally feed, attempt to feed, or attract" does not include keeping food, food waste, or other substance in an enclosed garbage receptacle or other enclosed container unless specifically directed by a fish and wildlife officer or animal control authority to secure the receptacle or container in another manner.

(70) "Large wild carnivore" includes wild bear, cougar, and wolf.

(71) "Negligently feed, attempt to feed, or attract" means to provide, leave, or place in, on, or about any land or building any food, food waste, or other substance that attracts or could attract large wild carnivores to that land or building, with the awareness that a reasonable person in the same situation would have with regard to the likelihood that the food, food waste, or other substance could attract large wild carnivores to the land or building. "Negligently feed, attempt to feed, or attract" does not include keeping food, food waste, or other substance in an enclosed garbage receptacle or other enclosed container unless specifically directed by a fish and wildlife officer or animal control authority to secure the receptacle or container in another manner.

Sec. 2. RCW 77.08.030 and 1980 c 78 s 11 are each amended to read as follows:

As used in this title or rules of the commission, "big game" means the following species:

Scientific Name	Common Name
Cervus canadensis	elk or wapiti
Odocoileus hemionus	blacktail deer or mule deer
Odocoileus virginianus	whitetail deer
Alces americana	moose
Oreamnos americanus	mountain goat
Rangifer caribou	<u>woodland</u> caribou
Ovis canadensis	mountain sheep
Antilocapra americana	pronghorn antelope
Felis concolor	cougar or mountain lion

1	Euarctos americana	black bear
2	Ursus horribilis	grizzly bear
3	<u>Canis lupis</u>	<u>gray wolf</u>

4 **NEW SECTION.** **Sec. 3.** A new section is added to chapter 77.36 RCW
5 to read as follows:

6 (1) The department may not pay more than fifty thousand dollars per
7 fiscal year from the state wildlife account created in RCW 77.12.170
8 for claims and assessment costs for injury or loss of commercial
9 livestock submitted under RCW 77.36.100.

10 (2) The department may accept and expend money from other sources
11 to address losses or damage to livestock or other property.

12 **Sec. 4.** RCW 77.36.100 and 2009 c 333 s 55 are each amended to read
13 as follows:

14 (1)(a) Except as limited by RCW 77.36.070 and 77.36.080, the
15 department shall offer to distribute money appropriated to pay claims
16 to the owner of commercial crops for damage caused by wild deer or elk
17 ~~((or to the owners of commercial livestock that has been killed by~~
18 ~~bears, wolves, or cougars, or injured by bears, wolves, or cougars to~~
19 ~~such a degree that the market value of the commercial livestock has~~
20 ~~been diminished))~~. Payments for claims for damage to commercial
21 livestock ~~((are not subject to the limitations of RCW 77.36.070 and~~
22 ~~77.36.080, but may not exceed the total amount specifically~~
23 ~~appropriated therefor))~~ that have been killed or that have been injured
24 by large wild carnivores to such a degree that the market value of the
25 commercial livestock has been diminished, are subject to the
26 limitations of section 3(1) of this act and may not exceed the total
27 amount specifically appropriated therefor.

28 (b) Owners of commercial crops or commercial livestock are only
29 eligible for a claim under this subsection if:

30 (i) The owner satisfies the definition of "eligible farmer" in RCW
31 82.08.855;

32 (ii) The conditions of RCW 77.36.110 have been satisfied; and

33 (iii) The damage caused to the commercial crop or commercial
34 livestock satisfies the criteria for damage established by the
35 commission under (c) of this subsection.

1 (c) The commission shall adopt and maintain by rule criteria that
2 clarifies the damage to commercial crops and commercial livestock
3 qualifying for compensation under this subsection. An owner of a
4 commercial crop or commercial livestock must satisfy the criteria prior
5 to receiving compensation under this subsection. The criteria for
6 damage adopted under this subsection must include, but not be limited
7 to, a required minimum economic loss to the owner of the commercial
8 crop or commercial livestock, which may not be set at a value of less
9 than five hundred dollars.

10 (2)(a) The department may offer to provide noncash compensation
11 ~~((only))~~ to offset wildlife interactions to a person who applies to the
12 department for compensation for damage to property other than
13 commercial crops or commercial livestock that is the result of a
14 mammalian or avian species of wildlife on a case-specific basis if the
15 conditions of RCW 77.36.110 have been satisfied and if the damage
16 satisfies the criteria for damage established by the commission under
17 (b) of this subsection.

18 (b) The commission shall adopt and maintain by rule criteria for
19 damage to property other than a commercial crop or commercial livestock
20 that is damaged by wildlife and may be eligible for compensation under
21 this subsection, including criteria for filing a claim for compensation
22 under this subsection.

23 (3)(a) To prevent or offset wildlife interactions, the department
24 may offer materials or services to a person who applies to the
25 department for assistance in providing mitigating actions designed to
26 reduce wildlife interactions if the actions are designed to address
27 damage that satisfies the criteria for damage established by the
28 commission under this ~~((subsection))~~ section.

29 (b) The commission shall adopt and maintain by rule criteria for
30 mitigating actions designed to address wildlife interactions that may
31 be eligible for materials and services under this section, including
32 criteria for submitting an application under this section.

33 (4) An owner who files a claim under this section may appeal the
34 decision of the department pursuant to rules adopted by the commission
35 if the claim:

36 (a) Is denied; or

37 (b) Is disputed by the owner and the owner disagrees with the
38 amount of compensation determined by the department.

1 (5) The commission shall adopt rules setting limits and conditions
2 for the department's expenditures on claims and assessments for
3 commercial crops, commercial livestock, other property, and mitigating
4 actions.

5 **Sec. 5.** RCW 77.36.130 and 2009 c 333 s 58 are each amended to read
6 as follows:

7 (1) Except as otherwise provided in this section and as limited by
8 RCW 77.36.100, 77.36.070, ~~((and))~~ 77.36.080, and section 3(1) of this
9 act, the cash compensation portion of each claim by the department
10 under this chapter is limited to the lesser of:

11 (a) The value of the damage to the property by wildlife, reduced by
12 the amount of compensation provided to the claimant by any nonprofit
13 organizations that provide compensation to private property owners due
14 to financial losses caused by wildlife interactions(~~(, except that,~~
15 ~~subject to appropriation to pay compensation for damage to commercial~~
16 ~~livestock,))~~. The value of killed or injured commercial livestock may
17 be no more than two hundred dollars per sheep, one thousand five
18 hundred dollars per head of cattle, and one thousand five hundred
19 dollars per horse; or

20 (b) Ten thousand dollars.

21 (2) The department may offer to pay a claim for an amount in excess
22 of ten thousand dollars to the owners of commercial crops or commercial
23 livestock filing a claim under RCW 77.36.100 only if the outcome of an
24 appeal filed by the claimant under RCW 77.36.100 determines a payment
25 higher than ten thousand dollars.

26 (3) All payments of claims by the department under this chapter
27 must be paid to the owner of the damaged property and may not be
28 assigned to a third party.

29 (4) The burden of proving all property damage, including damage to
30 commercial crops and commercial livestock, belongs to the claimant.

31 NEW SECTION. **Sec. 6.** A new section is added to chapter 77.15 RCW
32 to read as follows:

33 (1) A person may not negligently feed or attempt to feed large wild
34 carnivores or negligently attract large wild carnivores to land or a
35 building.

1 (2) If a fish and wildlife officer, ex officio fish and wildlife
2 officer, or animal control authority as defined in RCW 16.30.010, has
3 probable cause to believe that a person is negligently feeding,
4 attempting to feed, or attracting large wild carnivores to land or a
5 building by placing or locating food, food waste, or other substance
6 in, on, or about any land or building, and the food, food waste, or
7 other substance poses a risk to the safety of any person, livestock, or
8 pet because it is attracting or could attract large wild carnivores to
9 the land or building, that person commits an infraction under chapter
10 7.84 RCW.

11 (3) Subsection (2) of this section does not apply to:

12 (a) A person who is engaging in forest practices in accordance with
13 chapter 76.09 RCW or in hunting or trapping wildlife in accordance with
14 all other applicable provisions of this title or rules of the
15 commission or the director;

16 (b) A person who is engaging in a farming or ranching operation
17 that is using generally accepted farming or ranching practices
18 consistent with Titles 15 and 16 RCW;

19 (c) Waste disposal facilities that are operating in accordance with
20 applicable federal, state, and municipal laws;

21 (d) Entities listed in RCW 16.30.020(1) (a) through (j) and
22 scientific collection permit holders; or

23 (e) A fish and wildlife officer or employee or agent of the
24 department conducting authorized wildlife capture activities.

25 (4) For persons and entities listed in subsection (3) of this
26 section, a fish and wildlife officer, ex officio fish and wildlife
27 officer, or animal control authority as defined in RCW 16.30.010, may
28 issue a written warning to the person or entity if:

29 (a) The officer or animal control authority can articulate facts to
30 support that the person or entity has placed or is responsible for
31 placing food, food waste, or other substance in, on, or about the
32 person's or entity's land or buildings; and

33 (b) The food, food waste, or other substance poses a risk to the
34 safety of any person, livestock, or pet because the food, food waste,
35 or other substance is attracting or could attract large wild carnivores
36 to the land or buildings.

37 (5)(a) Any written warning issued under subsection (4) of this

1 section requires the person or entity placing or otherwise responsible
2 for placing the food, food waste, or other substance, to contain, move,
3 or remove that food, food waste, or other substance within two days.

4 (b) If a person who is issued a written warning under (a) of this
5 subsection fails to contain, move, or remove the food, food waste, or
6 other substance as directed, the person commits an infraction under
7 chapter 7.84 RCW.

8 NEW SECTION. **Sec. 7.** A new section is added to chapter 77.15 RCW
9 to read as follows:

10 (1) A person may not intentionally feed or attempt to feed large
11 wild carnivores or intentionally attract large wild carnivores to land
12 or a building.

13 (2) A person who intentionally feeds, attempts to feed, or attracts
14 large wild carnivores to land or a building is guilty of a misdemeanor.

15 (3) A person who is issued an infraction under section 6 of this
16 act for negligently feeding, attempting to feed, or attracting large
17 wild carnivores to land or a building, and who fails to contain, move,
18 or remove the food, food waste, or other substance within twenty-four
19 hours of being issued the infraction, is guilty of a misdemeanor.

20 **Sec. 8.** RCW 77.15.160 and 2000 c 107 s 237 are each amended to
21 read as follows:

22 A person is guilty of an infraction, which shall be cited and
23 punished as provided under chapter 7.84 RCW, if the person:

24 (1) Fails to immediately record a catch of fish or shellfish on a
25 catch record card required by RCW 77.32.430, or required by rule of the
26 commission under this title; (~~(or)~~)

27 (2) Fishes for personal use using barbed hooks in violation of any
28 rule; (~~(or)~~)

29 (3) Negligently feeds, attempts to feed, or attract large wild
30 carnivores in violation of section 6 of this act;

31 (4) Commits any offense designated as an infraction under this
32 title; or

33 (5) Violates any other rule of the commission or director that is
34 designated by rule as an infraction.

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